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(Head notes prepared by M. P. Burks, State Reporter.)

CITY OF DANVILLE V. ROBINSON.—Decided at Wytheville, June 20, 1901.—*Cardwell, J.*

1. MUNICIPAL CORPORATIONS—*Defective sidewalks—Notice—Suit by councilman.* The fact of being a member of a city council does not *per se* charge the councilman with notice of defects in the sidewalks of the city, nor debar him from recovering damages occasioned by its neglect to repair its sidewalks.

2. CONTRIBUTORY NEGLIGENCE—*Question for jury—Effect of verdict.* Whether a plaintiff has been guilty of contributory negligence is a question for the jury under proper instructions from the court, and their finding will not be disturbed where the evidence is such that reasonable men might fairly differ as to whether there was such negligence or not.

3. MUNICIPAL CORPORATIONS—*Defective highways—Use by public—Dangers not obvious.* Travellers are not forbidden by law to use a public highway known by them to be unsafe, unless the unsafe condition is such as to make the danger obvious and imminent.

ALLISON V. ALLISON'S EXECUTORS AND OTHERS.—Decided at Wytheville, June 20, 1901.—*Keith, P.*

1. ELECTION—*Inconsistent rights or claims.* Election is the obligation imposed upon a party to choose between two inconsistent or alternative rights or claims in cases where there is a clear intention of the person from whom he derives one that he should not enjoy both.

2. ELECTION—*Husband and wife—Bond for wife's benefit—Substitution of other securities—Gifts—Burden of proof.* Where a husband, at the time of marriage, executes his bond to a trustee for the benefit of his intended wife reserving the right to substitute other property in lieu of the bond, in whole or in part, provided she first consents thereto in writing, and at a fair value to be agreed on between her and him, and to be endorsed as a credit on the bond, the subsequent purchase by him of a small amount of stock, and the transfer thereof to her trustee will not, in the absence of such an endorsement, and of all evidence whatever of such an intention, be deemed a payment on the bond. The burden of showing such an intention is on the party asserting it.

HOFFMAN V. PLANTERS NATIONAL BANK.—Decided at Wytheville, June 20, 1901.—*Cardwell, J.* Absent, *Keith, P.*

1. NEGOTIABLE INSTRUMENTS—*Alteration—Incompleteness—Negotiable Instrument Act.* The unauthorized change of the name of the payee of a negotiable note is a material alteration which renders the note void as to the maker. The fact that the note is incomplete, when altered, does not affect the result. Sections 124 and 125 of the Negotiable Instrument Act (Acts 1897-'8, p. 910), as to alterations of such instruments, is simply declaratory of the former law on the subject.